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January 31, 2005

Senator Mary Lundby  
Senator Tom Courtney

Representative Dwayne Alons  
Representative Victoria Lensing

Dear Senators Lundby and Courtney, and Representatives Alons and Lensing:

Doug Wulf contacted my office on Friday and asked that I join your committee meeting at 9:30 a.m. Tuesday to explain the Governor's policy of accepting contributions to state government on behalf of the citizens of Iowa.

As you know, the Governor's proposed budget is being released this week at a series of legislative and public briefings in which I am scheduled to participate. As I promised in my e-mail to you, following is an explanation of the Governor's policy on accepting contributions to state government.

The Iowa Code sets out several statutory provisions by which the Governor is authorized to accept donations and grants of real and personal property on behalf of the State for public use.

For example, the governor is expressly granted statutory authority to accept grant money to be used by the Department of Administrative Service, the Department of Inspections and Appeals, the Division of Labor Services, and the Department of Education. See Iowa Code §§ 8A.104, 10A.104, 88.2(5) (2005).

Under chapter 29, the Governor is authorized to receive federal financial assistance to be used for disaster relief efforts. See Iowa Code § 29C.6. Additionally, chapter 29 authorizes the Governor to accept services, equipment, supplies, materials, or funds for homeland security and emergency management. See Iowa Code § 29C.13.

Finally, under chapter 565, the Governor may accept any gift, devise, or bequest of property made to the state. See Iowa Code § 565.3 (2005). Such property must be held and managed in the same way as other property of the state, and any conditions attached to such gift become binding upon the state upon acceptance. See Iowa Code § 565.4 (2005); Iowa Op. Atty. Gen. 235 (1981).

With respect to Iowa's ethical limitations on the acceptance of gifts by public officials, the Attorney General has opined that,

Donation of items of personal or real property which are properly accepted by the [Governor] would most often raise no gift law issue because these would not generally benefit a particular employee . . . . However, even such donations could violate § 68B.5 if the individual official or employee actually received the benefit from the gift. (For example, acceptance of new furniture for an employee's office could be perceived as a benefit to the employee rather than a gift to the State.)

*Iowa Op. Atty. Gen. 52 (1989).*

I always look forward to updating you on items of mutual interest and will plan to work with Doug to reschedule my appearance before your committee.

Sincerely,

Cynthia P. Eisenhauer  
Interim Chief of Staff

*c: Doug Wulf, Legislative Services Agency*